



January 14, 2016

SENATE BILL No. 183

DIGEST OF SB 183 (Updated January 12, 2016 1:30 pm - DI 106)

Citations Affected: IC 35-43.

Synopsis: Foreclosure mischief. Provides that a person who knowingly or intentionally damages, permanently removes an object from, or defaces residential real property that is the subject of a foreclosure action commits a Class B misdemeanor, and enhances the penalty based on the amount of damage. Provides a defense if the damage, removal, or defacement was the result of repair, renovation, replacement, or maintenance performed in good faith.

Effective: July 1, 2016.

Bray

January 6, 2016, read first time and referred to Committee on Corrections & Criminal Law.
January 13, 2016, amended, reported favorably — Do Pass.

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January 14, 2016

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 183

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-43-4-9 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2016]: **Sec. 9. (a) This section applies only to residential real**
4 **property in foreclosure.**

5 **(b) The following definitions apply throughout this section:**

6 **(1) "Damages, permanently removes an object from, or**
7 **defaces the residential real property" means to damage,**
8 **permanently remove, or deface one (1) or more of the**
9 **following:**

10 **(A) Fixtures (as defined in IC 26-1-2.1-309) of the**
11 **residential real property.**

12 **(B) A component or subsystem of the heating, ventilation,**
13 **or air conditioning system of the residential real property.**

14 **(C) Wiring of the residential real property.**

15 **(D) Pipes, fittings, or another part of the plumbing system**
16 **of the residential real property.**

17 **(E) The structure, including the roof and foundation, of the**

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1 residential real property.

2 (F) The windows of the residential real property.

3 (G) The floors, ceilings, walls, or doors of the residential
4 real property.

5 (H) The landscaping of the residential real property.

6 (I) An unattached structure, carport, patio, fence, or
7 swimming pool located on the residential real property.

8 (2) "Residential real property" means real property that is
9 primarily used as a dwelling.

10 (3) "Residential real property in foreclosure" means
11 residential real property with respect to which a foreclosure
12 action has been filed or joined by a person having a security
13 interest in the property that is used to secure:

14 (A) a mortgage;

15 (B) a land contract; or

16 (C) another agreement similar to a mortgage or a land
17 contract.

18 The term does not include property that is the subject of a
19 foreclosure action brought by a person having any other type
20 of security interest in the property, including a mechanic's
21 lien, a tax lien, or a lien placed by a homeowners association,
22 unless the property is also the subject of a foreclosure action
23 described in clauses (A) through (C).

24 (c) A person who knowingly or intentionally damages,
25 permanently removes an object from, or defaces residential real
26 property in foreclosure commits foreclosure mischief, a Class B
27 misdemeanor. However, the offense is:

28 (1) a Class A misdemeanor if the pecuniary loss is at least
29 seven hundred fifty dollars (\$750) but less than fifty thousand
30 dollars (\$50,000); and

31 (2) a Level 6 felony if the pecuniary loss is at least fifty
32 thousand dollars (\$50,000).

33 (d) It is a defense to a prosecution under this section that the
34 damage, removal, or defacement was the result of repair,
35 renovation, replacement, or maintenance performed in good faith.



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 183, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 26, delete "Class A" and insert "**Class B**".

Page 2, delete line 27 and insert "**misdemeanor. However, the offense is:**

(1) a Class A misdemeanor if the pecuniary loss is at least seven hundred fifty dollars (\$750) but less than fifty thousand dollars (\$50,000); and

(2) a Level 6 felony if the pecuniary loss is at least fifty thousand dollars (\$50,000)."

and when so amended that said bill do pass.

(Reference is to SB 183 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 8, Nays 0.

